

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

BRIAN D. MIZE,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.; and
NORTHWEST TRUSTEE SERVICES, INC.,

Defendants.

No. 11-01245-MJP

**ANSWER OF DEFENDANT
NORTHWEST TRUSTEE
SERVICES, INC.**

Defendant Northwest Trustee Services, Inc. ("NWTs") by and through its attorneys of record, for its answer, defenses and affirmative defenses to the claims alleged by Plaintiff Brian D. Mize ("Plaintiff") in his Complaint states as follows:

I. ANSWER

1.1 Defendant NWTs denies there is complete diversity in this matter. Defendant NWTs lacks sufficient information or belief to admit or deny the remaining allegations in this paragraph and therefore denies the same.

1.2 Defendant NWTs lacks sufficient information or belief to admit or deny the allegations in this paragraph and therefore denies the same. Further, the documents referenced in this paragraph speak for themselves.

1 1.3 Defendant NWTS lacks sufficient information or belief to admit or deny the
2 allegations in this paragraph and therefore denies the same.

3 1.4 Defendant NWTS denies Plaintiff's statement regarding jurisdiction and venue.
4 Defendant NWTS admits all other allegations contained in this paragraph.
5

6 2.1 Defendant NWTS asserts that the promissory note speaks for itself. Defendant
7 NWTS lacks sufficient information or belief to admit or deny the remaining allegations in this
8 paragraph and therefore denies the same.

9 2.2 Defendant NWTS asserts that the deed of trust speaks for itself. Defendant NWTS
10 lacks sufficient information or belief to admit or deny the remaining allegations in this paragraph
11 and therefore denies the same.

12 2.3 Defendant NWTS asserts that the notice of default, beneficiary declaration, and
13 appointment of successor trustee speak for themselves. Defendant NWTS admits it was not
14 appointed successor trustee at the time it transmitted the notice of default to Plaintiff as an agent
15 to Defendant Chase. Defendant NWTS denies the remaining allegations in this paragraph.
16

17 2.4.1 Defendant NWTS asserts that the notice of default, beneficiary declaration, and
18 appointment of successor trustee speak for themselves. Defendant NWTS admits it was not
19 appointed successor trustee at the time it transmitted the notice of default to Plaintiff as an agent
20 to Defendant Chase. Defendant NWTS denies the remaining allegations in this paragraph.
21

22 2.4 Defendant NWTS asserts that the letter dated March 16, 2010 speaks for itself. To
23 the extent that Plaintiff quotes statutory language in this paragraph, no response is necessary
24 from NWTS. Defendant NWTS lacks sufficient information or belief to admit or deny the
25 remaining allegations in this paragraph and therefore denies the same.
26

1 2.5 Defendant NWTs asserts that the appointment of successor trustee speaks for
2 itself. To the extent that Plaintiff quotes statutory language in this paragraph, no response is
3 necessary from NWTs. Defendant NWTs lacks sufficient information or belief to admit or deny
4 the remaining allegations in this paragraph and therefore denies the same.

5 2.6 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
6 NWTs lacks sufficient information or belief to admit or deny the remaining allegations in this
7 paragraph and therefore denies the same.

8 2.6.1.1 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
9 NWTs lacks sufficient information or belief to admit or deny the remaining allegations in this
10 paragraph and therefore denies the same.

11 2.6.1.2 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
12 NWTs lacks sufficient information or belief to admit or deny the remaining allegations in this
13 paragraph and therefore denies the same.

14 2.6.2.1 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
15 NWTs denies the remaining allegations in this paragraph.

16 2.6.2.2 Defendant NWTs asserts that the notice of sale speaks for itself. To the extent
17 Plaintiff asserts legal conclusions, no response is necessary. Defendant NWTs lacks sufficient
18 information or belief to admit or deny the remaining allegations in this paragraph and therefore
19 denies the same.

20 2.6.2.3 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
21 NWTs denies the remaining allegations in this paragraph.

22 2.6.3 Defendant NWTs asserts that the notice of sale speaks for itself. Defendant
23 NWTs denies the remaining allegations in this paragraph.

1 2.7 Defendant NWTs asserts that the motion for relief from stay and amended notice
2 of sale speak for themselves. Defendant NWTs lacks sufficient information or belief to admit or
3 deny the remaining allegations in this paragraph and therefore denies the same.

4 2.7.1.1 Defendant NWTs asserts that the amended notice of sale speaks for itself.
5 Defendant NWTs denies the remaining allegations in this paragraph.
6

7 2.7.2-2.7.2.1 Defendant NWTs asserts that the notice of sale speaks for itself.
8 Defendant NWTs denies the remaining allegations in this paragraph.

9 2.7.2.2 Defendant NWTs asserts that the amended notice of sale speaks for itself. To the
10 extent Plaintiff asserts legal conclusions, no response is necessary. Defendant NWTs lacks
11 sufficient information or belief to admit or deny the remaining allegations in this paragraph and
12 therefore denies the same.
13

14 2.7.2.3 Defendant NWTs asserts that the amended notice of sale speaks for itself.
15 Defendant NWTs denies the remaining allegations in this paragraph.

16 2.7.3 Defendant NWTs asserts that the amended notice of sale speaks for itself.
17 Defendant NWTs denies the remaining allegations in this paragraph.

18 2.8- 2.8.1 Defendant NWTs asserts that the second notice of sale speaks for itself.
19 Defendant NWTs denies the remaining allegations in this paragraph.
20

21 2.8.1.1 Defendant NWTs asserts that the second notice of sale speaks for itself.
22 Defendant NWTs denies the remaining allegations in this paragraph.

23 2.8.1.2 Defendant NWTs asserts that the second notice of sale speaks for itself.
24 Defendant NWTs denies the remaining allegations in this paragraph.

25 2.8.2 Defendant NWTs asserts that the second notice of sale speaks for itself.
26 Defendant NWTs denies the remaining allegations in this paragraph.

1 2.8.2.1 Defendant NWTs asserts that the second notice of sale speaks for itself.
2 Defendant NWTs denies the remaining allegations in this paragraph.

3 2.8.2.2 Defendant NWTs asserts that the second notice of sale speaks for itself.
4 Defendant NWTs denies the remaining allegations in this paragraph.

5 2.8.3 Defendant NWTs asserts that the second notice of sale speaks for itself.
6 Defendant NWTs denies the remaining allegations in this paragraph.

7 2.9 Defendant NWTs asserts that the second notice of sale speaks for itself.
8 Defendant NWTs denies the remaining allegations in this paragraph.

9 2.10 Defendant NWTs asserts that the notice of sale, amended notice of sale, and
10 second notice of sale speak for themselves. Defendant NWTs denies the remaining allegations in
11 this paragraph.
12

13 2.11 Defendant NWTs lacks sufficient information or belief to admit or deny the
14 allegations in this paragraph and therefore denies the same.

15 2.12 Defendant NWTs lacks sufficient information or belief to admit or deny the
16 allegations in this paragraph and therefore denies the same.

17 2.13 Defendant NWTs lacks sufficient information or belief to admit or deny the
18 allegations in this paragraph and therefore denies the same.

19 3.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
20 allegations in this paragraph and therefore denies the same.

21 3.1.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
22 allegations in this paragraph and therefore denies the same.

23 3.1.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
24 allegations in this paragraph and therefore denies the same.

1 3.1.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
2 allegations in this paragraph and therefore denies the same.

3 3.1.4 Deny.

4 3.1.5 Deny.

5 3.1.6 Deny.

6 3.1.7 Deny.

7 3.1.8 Deny.

8 3.1.9 Deny.

9 3.1.10 Deny.

10 3.1.11 Deny.

11 3.1.12 Defendant NWTs denies Plaintiff has suffered any damages or is entitled to any
12 award of damages.
13

14 3.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
15 allegations in this paragraph and therefore denies the same.
16

17 3.2.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
18 allegations in this paragraph and therefore denies the same.

19 3.2.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
20 allegations in this paragraph and therefore denies the same.
21

22 3.2.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
23 allegations in this paragraph and therefore denies the same.

24 3.2.4 Deny.

25 3.2.5 Deny.

1 3.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
2 allegations in this paragraph and therefore denies the same.

3 3.3.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
4 allegations in this paragraph and therefore denies the same.

5 3.3.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
6 allegations in this paragraph and therefore denies the same.

7 3.3.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
8 allegations in this paragraph and therefore denies the same.

9 3.4 Defendant NWTs lacks sufficient information or belief to admit or deny the
10 allegations in this paragraph and therefore denies the same.

11 3.4.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
12 allegations in this paragraph and therefore denies the same.

13 3.4.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
14 allegations in this paragraph and therefore denies the same.

15 3.4.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
16 allegations in this paragraph and therefore denies the same.

17 3.4.4 Deny.

18 3.5 Defendant NWTs lacks sufficient information or belief to admit or deny the
19 allegations in this paragraph and therefore denies the same.

20 3.5.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
21 allegations in this paragraph and therefore denies the same.

22 3.5.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
23 allegations in this paragraph and therefore denies the same.

1 3.5.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
2 allegations in this paragraph and therefore denies the same.

3 3.6 Defendant NWTs lacks sufficient information or belief to admit or deny the
4 allegations in this paragraph and therefore denies the same.

5 3.6.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
6 allegations in this paragraph and therefore denies the same.

7 3.6.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
8 allegations in this paragraph and therefore denies the same.

9 3.6.2.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
10 allegations in this paragraph and therefore denies the same.

11 3.6.2.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
12 allegations in this paragraph and therefore denies the same.

13 3.6.3 Deny.

14 3.6.3.1 Deny.

15 3.6.3.2 Deny.

16 3.6.3.3 Deny.

17 3.6.3.4 This paragraph only contains legal conclusions to which no response is required.
18 To the extent that any allegations are asserted in this paragraph, NWTs denies them.

19 3.6.3.5 Deny.

20 3.6.3.6 Deny.

21 3.6.4 Defendant NWTs lacks sufficient information or belief to admit or deny the
22 allegations in this paragraph and therefore denies the same.

1 3.6.4.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
2 allegations in this paragraph and therefore denies the same.

3 3.6.4.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
4 allegations in this paragraph and therefore denies the same.

5 3.6.4.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
6 allegations in this paragraph and therefore denies the same.

7 3.6.4.4 Defendant NWTs lacks sufficient information or belief to admit or deny the
8 allegations in this paragraph and therefore denies the same.

9 3.6.4.5 Defendant NWTs lacks sufficient information or belief to admit or deny the
10 allegations in this paragraph and therefore denies the same.

11 3.6.4.6 Defendant NWTs lacks sufficient information or belief to admit or deny the
12 allegations in this paragraph and therefore denies the same.

13 3.6.5 Deny.

14 3.7 Defendant NWTs lacks sufficient information or belief to admit or deny the
15 allegations in this paragraph and therefore denies the same.

16 3.7.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
17 allegations in this paragraph and therefore denies the same.

18 3.7.2 Defendant NWTs lacks sufficient information or belief to admit or deny the
19 allegations in this paragraph and therefore denies the same.

20 3.7.3 Deny.

21 3.7.4 Defendant NWTs lacks sufficient information or belief to admit or deny the
22 allegations in this paragraph and therefore denies the same.

23 3.7.5 Deny.

1 3.7.6 Deny.

2 3.8 Defendant NWTs lacks sufficient information or belief to admit or deny the
3 allegations in this paragraph and therefore denies the same.

4 3.8.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
5 allegations in this paragraph and therefore denies the same.

6 3.8.1.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
7 allegations in this paragraph and therefore denies the same.

8 3.8.1.2 Deny.

9 3.8.1.3 Defendant NWTs lacks sufficient information or belief to admit or deny the
10 allegations in this paragraph and therefore denies the same.

11 3.8.1.4 Deny.

12 3.8.1.5 Defendant NWTs lacks sufficient information or belief to admit or deny the
13 allegations in this paragraph and therefore denies the same.

14 3.8.1.6 Defendant NWTs denies Plaintiff is entitled to any preliminary injunction.
15 Defendant NWTs lacks sufficient information or belief to admit or deny the remaining
16 allegations in this paragraph and therefore denies the same.

17 3.8.1.6.1 Defendant NWTs lacks sufficient information or belief to admit or deny the
18 allegations in this paragraph and therefore denies the same.

19 3.8.1.7 Defendant NWTs denies Plaintiff is entitled to any preliminary injunction.
20 Defendant NWTs lacks sufficient information or belief to admit or deny the remaining
21 allegations in this paragraph and therefore denies the same.

22 4.1 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
23 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
24

1 admit or deny the remaining allegations in this paragraph and therefore denies the same.

2 4.1.1 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
3 any cause of action. Defendant NWTs lacks sufficient information or belief to admit or deny the
4 remaining allegations in this paragraph and therefore denies the same.

5 4.2 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
6 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
7 admit or deny the remaining allegations in this paragraph and therefore denies the same.

8 4.3 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
9 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
10 admit or deny the remaining allegations in this paragraph and therefore denies the same.

11 4.4 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
12 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
13 admit or deny the remaining allegations in this paragraph and therefore denies the same.

14 4.5 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
15 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
16 admit or deny the remaining allegations in this paragraph and therefore denies the same.

17 4.6 Defendant NWTs denies Plaintiff is entitled to any judgment against NWTs for
18 violation of the Deed of Trust Act. Defendant NWTs lacks sufficient information or belief to
19 admit or deny the remaining allegations in this paragraph and therefore denies the same.

20 4.7 Defendant NWTs lacks sufficient information or belief to admit or deny the
21 allegations in this paragraph and therefore denies the same.

22 4.8 Defendant NWTs denies Plaintiff is entitled to any relief.
23
24
25
26

II. AFFIRMATIVE DEFENSES

Having answered the Complaint, Defendant NWTs asserts the following affirmative defenses, the assertion of which in no way shifts the burden of proof to Defendant.

1. Failure to State A Claim. The claims asserted in Plaintiff's Complaint fail to state a claim upon which relief can be granted.

2. Waiver and Estoppel. Plaintiff's claims are barred by the equitable doctrines of waiver and estoppel.

3. Breach of Contract. Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payments described in the Note and Deed of Trust.

4. Nonperformance of Condition Precedent. Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payments described in the Note and Deed of Trust.

5. Contributory Fault/Unclean Hands. The claims asserted in Plaintiff's Complaint are barred in whole or in part based on his contributory fault and/or unclean hands.

6. Failure of Damages. Plaintiff cannot allege any cognizable damages resulting from the acts alleged in his Complaint.

7. Mitigation of Damages. Plaintiff has failed to mitigate the alleged damages.

III. RESERVATION

Defendant NWTs reserves the right to amend this Answer by way of adding affirmative defenses, counter claims, cross claims, or third party claims as the existence of such claims is discovered in the future.

IV. PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff's Complaint be dismissed with prejudice;
2. That the Plaintiff recovers nothing on account of the claims made in the Complaint.
3. That Defendant NWTS be awarded costs of suit herein; and
4. For such other and further relief as the Court deems equitable and just.

DATED this 16th day of February, 2012.

ROUTH CRABTREE OLSEN, P.S.

By: /s/ Heidi E. Buck
Heidi E. Buck, WSBA No. 41769
Attorneys for Defendant Northwest
Trustee Services, Inc.

Declaration of Service

The undersigned makes the following declaration:

1. I am now, and at all times herein mentioned was a resident of the State of Washington, over the age of eighteen years and not a party to this action, and I am competent to be a witness herein.

2. That on February 16, 2012, I caused a copy of the **Answer of Defendant Northwest Trustee Services, Inc.** to be served to the following in the manner noted below:

Bryan D. Mize 20908 48 th Ave. W. Lynnwood, WA 98036 <i>Pro Se Plaintiff</i>	<input checked="" type="checkbox"/> US Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile
Devra D. Featheringill Ann T. Marshall Bishop, White, Marshall & Weibel, P.S. 720 Olive Way, Suite 1201 Seattle, WA 98101 Attorneys for Defendant JPMorgan Chase Bank, N.A.	<input checked="" type="checkbox"/> US Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed this 16th day of February, 2011.

/s/ Kristine Stephan
 Kristine Stephan, Paralegal